

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13585 of George Washington University, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.46 to use part of the first floor of the subject premises as an office for University use in an R-5-C District at the premises 2222 Eye Street, N.W., (Square 55, Lot 851).

HEARING DATES: October 28 and December 16, 1981

DECISION DATE: January 6, 1982

FINDINGS OF FACT:

1. The public hearing in this matter was originally scheduled for October 28, 1981. At the request of the applicant, the hearing was postponed to permit the applicant to meet with representatives of student organizations to discuss further their concerns with the application.

2. The subject site is located in the R-5-C District on the southeast corner of the intersection of 23rd and Eye Streets and is known as premises 2222 Eye Street, N.W. The property is improved with an eight-story building located within the boundaries of the approved campus plan. The building is utilized as a University dormitory known as Milton Hall. To the north and west of the site across 23rd and I Streets, are hospital and medical center buildings.

3. The applicant requests permission to change the use of six units in the University dormitory to offices for the twelve member staff of its Emergency Medical Services (EMS) Department.

4. The EMS Department was formerly housed in the Burns Memorial Building at 2140 Pennsylvania Avenue, N.W., directly across the street from the hospital and the emergency room. By August of 1980, the emergency room workload had increased to the point where the staff of physicians and support personnel could not be accommodated and they were moved temporarily off campus until the University could find space. The EMS offices are now located on the ninth floor of leased space two blocks from the University hospital and outside of the campus area.

5. The division of Emergency Medical Services has several major functions. The EMS provides senior attending and staff personnel for the operation of the emergency room at

the hospital. The hospital is a fully designated trauma center and is the closest institution to the White House, Capitol Hill and the Mall area. The emergency room receives approximately 45,000 visits annually. Another major activity of EMS is serving as a major teaching function for the education of medical students, allied health students, interns and residents of the Medical Center. A third major activity is the dedication of division resources to community emergency medical service activities. The EMS is involved in the training, certification and direction of the District of Columbia's emergency medical services personnel, including EMT's, paramedics, and other related personnel. Further, the faculty of EMS provides on-site supervision for all care rendered in the emergency room on an eighteen hour day basis.

6. Because of the nature of the hospital operation, there is often a requirement for more than one senior faculty member to be present in the emergency room to help render care. Often, at least two senior physicians are required to handle the normal patient load that has occurred in the emergency room. Certain crisis conditions require more than one, sometimes three or four senior physicians to be present.

7. The BZA approved a campus plan for the University in Application No. 10403, by Order dated December 22, 1970. The campus plan booklet, dated August, 1970, which is cited by the University as the approved campus plan, on its Functional Areas map, shows the subject property as being located in the "Peripheral" area. Such area is to be used for athletic facilities, administrative offices, residential and parking. The subject property is not within the area to be devoted to the "Medical School-Hospital."

8. As set forth earlier, the offices of the EMS are clearly part of the Hospital and Medical School component of the University. The proposed location for such offices is not consistent with the approved campus plan.

9. The staff of EMS would comprise twelve adult members. No additional parking would be provided with the proposed use. The area is currently served by parking on the same block and a large parking lot adjacent to the Metrorail stop which is about 100 feet northwest of the site. The EMS would be located on the first floor and would have no elevator impact on the occupants of the seven other floors. Although the EMS is scheduled to be a twenty-four hour operation, it substantially concludes its busiest activity about 6:00 P.M. The University has also adversed that it will restrict use of noisy office equipment, other than dictaphones, after 6:00 P.M.

10. The building entrance has an automatic dial and signal system which provides for controlled access. Moreover, the EMS staff is a small group of professionals with minimal turnover. The small size of the staff and the small turnover should make them readily recognizable by residents. Accordingly, there will be no significant adverse impact on building or resident security as a result of the proposed use.

11. The applicant testified that because of severe space constraints, it is not feasible for members of EMS to have offices in the hospital. The proximity of the division staff members to the hospital is important in the type of care that can be rendered to patients under crisis conditions.

12. The present location of the EMS offices slightly delays immediate response of needed physicians in the emergency room during crises and other unanticipated periods, hinders teaching programs both internally and externally for the District of Columbia ambulance services, places the Division of Emergency Medicine outside the bounds of the campus security police force, and does not allow for the full utilization of equipment and materials for the numerous on-going educational programs of the division.

13. Lack of space in the hospital further hampers EMS educational programs. Training programs are often interrupted or cancelled due to the placement of patients in the only teaching area located in the emergency room.

14. In 1977 the applicant had approximately 2,000 housing spaces available for its undergraduate students. The number of such spaces has been increased by seventeen percent by the addition of over 300 spaces, including eighty-four in September 1981. During this same four years the University's undergraduate enrollment increased by about nine percent. An additional 104 undergraduate student housing accommodations are projected for September 1982, resulting in a total number of undergraduate spaces of 2,444.

15. The University has traditionally provided on-campus housing for about one-half of its full time undergraduate students. The accessibility of its campus by Metrorail is an aid to students locating housing that would not otherwise be suitable.

16. The applicant lacks on-campus office space to meet overall University needs and particularly the needs within the Medical Center.

17. The University has considered alternatives to locating the administrative offices for the staff of EMS in

facilities other than Milton Hall. The University argued that those alternate locations would be infeasible.

18. The applicant proposes to use space in Milton Hall for only four years. This period of time would allow the University sufficient time to provide, through new construction, additional office space on campus for the Medical Center units including the HMO, the Financial Services Department, and the EMS. The Board of Trustees has approved a capital program providing for this construction to be completed by 1985.

19. Relocation of EMS to Milton Hall, which is directly across Eye Street, N.W. from the University hospital, will bring this function within the University campus area and into essential close proximity with the hospital.

20. The Office of Planning and Development, in a report dated October 21, 1981, recommended approval of the application. The OPD concluded that the proposed use would not alter the basic character of this portion of the campus and would have no adverse impact. The OPD noted that the 1970 Campus Plan outlines land uses in only a general fashion, and lacks detail concerning secondary uses involving minor amounts of floor area in individual buildings. The Board addresses the question of consistency with the campus plan in Findings Nos. 7, 8 and 27, and consequently does not concur with the report and recommendation of the OPD.

21. The Department of Transportation, in a memorandum dated October 26, 1981, reported that it had reviewed the subject application and its attachments and could not identify any adverse traffic impact from the proposed use. The Board concurs, but for reasons discussed in its conclusions, finds that the DOT recommendation is not dispositive of the case.

22. The George Washington University Student Association opposed this application on the following grounds:

- a. The life of students is difficult enough in an urban environment without having to be exposed to a commercial entity in their place of residence.
- b. An acute and perennial housing problem leads to many students being denied University housing or being placed on long waiting lists. The University's request would necessitate the denial of campus housing to another twelve students in the future.

- c. The subject six units are units accessible to handicapped students and the subject dormitory and one other are the only two dorms that provide access for handicapped students.

23. The George Washington University Residence Hall Association (RHA) opposed the application on the following grounds:

- a. The existence of a current on-campus housing shortage.
- b. The precedent that would be set for displacing students from established residence halls in favor of commercial occupants.
- c. The introduction of additional GW students into the already tight housing situation in the Foggy Bottom area that would create further aggravation for anyone wishing to establish permanent residency in Foggy Bottom.
- d. The inability of the George Washington University administration to guarantee RHA that the move of the EMS offices would not be permanent.
- e. The University's failure to prove to RHA that the move is one of necessity rather than convenience.

24. Advisory Neighborhood Commission 2A, by report dated December 1, 1981, reported that it adopted a resolution in opposition to the application. The opposition was based on the following grounds:

- a. The critical need and long waiting list for on-campus student housing.
- b. To the extent that student housing is not available, the exacerbation of an already tight market for rental apartments in the Foggy Bottom area.
- c. The effect of granting this application as a precedent for future requests to convert student residential housing to office uses and the significance of the lack of on-campus housing for the twelve students who could be living in the rooms to be converted.

- d. The variety of options available to the University administration for alternate locations.
- e. The University has not fully utilized the space it has available on campus which might allow it to vacate other offices near the hospital. These include the old R & G Cleaners which the University has kept vacant for over two years.

25. At the close of the public hearing the record was left open for the applicant to submit floor plans of the first floor and basement of Milton Hall and written verification that the owner of the Park Lane would not consider allowing the students displaced to reside therein.

26. The Board is required by statute to give great weight to the issues and concerns of the ANC. The Board in addressing these issues and concerns as well as those of the student associations, finds that although the Board concurs in the recommendations, it does not agree with the reasoning behind the recommendations. The Board is governed by the Zoning Regulations. In an application for a special exception, an applicant must prove that it has met the requirements set forth in the specified sections of the Regulations. The only issues that are germane to this application are thus whether the proposed use is "likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions," and whether the use is consistent with the "plan for developing the campus as a whole." As set forth in Findings No. 7, and 8, this application is not consistent with the campus plan. As to impact, as set forth in Findings No. 9, 10 and 21, the size of the proposed use is so small that it is not likely by itself to cause any sufficient adverse or objectionable effects.

27. In addressing the major issues and concerns raised by the ANC, the Board finds as follows:

1. The need for on-campus housing is one that the University must address in its own forums and priorities. As set forth in Finding No. 14, the University has added housing units since 1977. The supply of units is dynamic; it is constantly changing. The Board is unable to find that the loss of six units housing twelve students has any significant impact on the University's housing supply or the availability of

housing otherwise in the Foggy Bottom area.

2. What is of significant precedential value in this application is not the conversion of housing units to offices, but the deviation from the approved campus plan. The land uses indicated for the "Peripheral Area," of which this property is a part, include non-residential uses such as administrative offices. The conversion to office space would not necessarily be inconsistent with the plan. However, the conversion to hospital-related office use is not consistent with the plan. Approval of an application that is inconsistent with the plan could have fatal consequences for the plan as a whole itself.
3. The University's options for using its space are clearly the prerogative of the University as long as such uses are permitted as a matter-of-right or are consistent with the approved plan. The Board has neither the desire nor the authority to plan for the University or to determine space allocations within the general categories that the University itself established. Once having proposed such categories, and having had them approved by the Board, the University is now constrained to abide by them.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3101.46 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. There is much in the record that is extraneous to the issues. The Board is not a forum for resolving the intra-social and space problems of the subject University. The Board's consideration is based upon the Zoning Regulations and not a balance of hardships.

There are two issues before the Board. First, is the proposed use consistent with the Campus plan as approved by

the Board? Second, is the proposed use so located that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions?

There is no doubt that the proposed use and the subject dormitory use are University uses. Based on Findings No. 9, 10 and 21, the Board concludes that the proposed use is not likely to become objectionable to neighboring property.

The Board accordingly, must look at the Campus Plan as approved. Under such plan, the subject Milton Hall was designated for "athletic facilities, administrative offices, residential and parking" and approved as such. To permit it to be used even in part as office use for the Hospital and Medical School is a deviation from the approved plan. The EMS Department as such was not approved under the Campus Plan. It is an accessory service to the hospital and medical school complex, not itself an entity as a dormitory.

The Board concludes that the proposed use is not consistent with the approved campus plan. If the requirement set forth in Sub-paragraph 3101.463 to submit a plan is to have any meaning or effect, then the University must abide by the plan it submits and the Board approves. The Board concludes that to approve an application inconsistent with the plan would lead to the eventual piecemeal destruction of the entire plan, which could ultimately adversely effect neighboring properties, even though the subject application by itself may not.

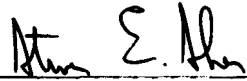
The Board notes that the University must be aware that as the science of medicine advances, more and more supportive services may be required. The University cannot address such needs by piecemeal solutions as now proposed. As set forth in Finding No. 18, the University has long range plans to accommodate the hospital and medical school expansion. Such plans should be advanced. The Board further notes that the fact that the University moved EMS off-campus, two blocks away from the hospital, in August, 1980 lessens the credibility of the University's statement of the EMS's high priority and critical nature.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, for the reasons set forth herein, it is ORDERED that the application is DENIED.

VOTE: 3-2 (Charles R. Norris, Lindsley Williams and Connie Fortune to DENY; Douglas J. Patton and William F. McIntosh OPPOSED to denial).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

MAY 12 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING
ADJUSTMENT."